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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,660	01/14/2004	Markus Allemann	0212.66402	4465
24978	7590	09/09/2005		
GREER, BURNS & CRAIN 300 S WACKER DR 25TH FLOOR CHICAGO, IL 60606			EXAMINER GATES, ERIC ANDREW	
			ART UNIT 3722	PAPER NUMBER

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/757,660

Applicant(s)

ALLEMANN ET AL.

Examiner

Eric A. Gates

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5/6/04, 7/20/05
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Specification***

2. The abstract of the disclosure is objected to because in line 4, "a grip portion the mechanism including" needs a comma after the word "portion". Correction is required. See MPEP § 608.01(b).

3. The disclosure is objected to because of the following informalities: On page 4, line 27, "tool 12" should be changed to "tool 10".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 1, the phrase "of the type" renders the claim indefinite because it is unclear what "type" of rotary hand tool the applicant is intending to convey. See MPEP § 2173.05(b).

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5. Claim 9 recites the limitation "said compressible material". There is insufficient antecedent basis for this limitation in the claim, as the compressible material is not referred to in any of the previous claims from which this claim depends.
6. Claim 10 recites the limitation "said body" in line 12. There is insufficient antecedent basis for this limitation in the claim, as the body is previously referred to as a "switch body".

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 and 3-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Von Hollen (US Patent 3,640,635).
8. Regarding claim 1, Von Hollen discloses a control mechanism for a rotary hand tool 10 having a generally cylindrical housing 15 in which a motor 18 is located, the housing 15 having a nose portion 41 at an end from which a motor output shaft 26 extends and a grip portion 15 around which an operator can wrap a hand during operation of the tool and within which portion a motor 18 is housed, said mechanism comprising an electrical control circuit that controls the application of power to and the operation of the motor 18; and a light touch switch 55-49 having a first and second positions coupled to said electrical control circuit for selectively enabling or disabling

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said control circuit to turn the motor on and off; wherein said switch 55-49 is disposed on a portion of the nose portion 41 of the rotary hand tool 10 such that an operator can actuate said switch without altering the operator's grip on the tool.

9. Regarding claim 3, the switch 55-49 of Von Hollen has a predetermined thickness not distinctly given, but which is inherent to the existence of said switch.

10. Regarding claim 4, Von Hollen discloses that said first position disables said control circuit and said second position enables said electrical control circuit.

11. Regarding claim 5, Von Hollen discloses said portion of the nose portion 41 on which said switch 55-49 is disposed generally corresponds to a location of the operator's index finger when grasping the tool 10.

12. Regarding claim 6, Von Hollen discloses a layer of flexible grip material 11 surrounding a portion of the nose portion 41.

13. Regarding claim 7, Von Hollen discloses a layer of grip material 11 surrounding the portion of the nose portion 41 in which said switch 55-49 is disposed.

14. Regarding claim 8, Von Hollen discloses a layer of rubber 11 surrounding the portion of the nose portion 41 in which said switch is disposed.

15. Regarding claim 9, Von Hollen discloses the layer of flexible grip material 11, referred to in claim 9 as said compressible material, abuts said switch 55-49 when compressed.

16. Regarding claim 10, Von Hollen discloses a switch assembly 55-49 for selectively controlling actuation or deactivation of control circuitry that controls the power applied to and the operation of the motor 18 of a rotary hand tool 10 of the type

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having a generally cylindrical housing 15 that includes a generally cylindrical nose portion 41 at an end from which an output shaft 26 extends, and a grip portion 11 around which an operator wraps a hand during operation of the tool, the nose portion having a cavity 49 configured to receive a switch body 55, said switch assembly comprising a switch body 55 having a predetermined configuration and containing at least a pair of switch contacts 59 and 59' that are selectively opened and closed responsive to switch button 55; and a cavity 49 disposed in the nose portion 41 of the tool that is configured to matingly receive at least a portion of said switch body 55 and permit actuation of said switch button 55; and a layer of grip material 11 surrounding at least a portion of the grip portion 11 in which said switch body 55 is disposed.

17. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Markle (US Patent 4,772,765).

18. Regarding claim 1, Markle discloses a control mechanism for a rotary hand tool 10 having a generally cylindrical housing 12 in which a motor M is located, the housing 12 having a nose portion at an end from which a motor output shaft 40 extends and a grip portion 14 around which an operator can wrap a hand during operation of the tool and within which portion a motor M is housed, said mechanism comprising an electrical control circuit that controls the application of power to and the operation of the motor M; and a light touch switch 28 having a first and second positions coupled to said electrical control circuit for selectively enabling or disabling said control circuit to turn the motor on and off; wherein said switch 28 is disposed on a portion of the nose portion of the rotary

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hand tool 10 such that an operator can actuate said switch without altering the operator's grip on the tool.

19. Regarding claim 2, Markle discloses said switch 28 is configured to be generally rectangular.

### ***Conclusion***

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Frisbie (US Patent 2,483,727), Misuraca (US Patent 3,699,825), Albert (US Patent 3,802,518), Crutchfield (US Patent 4,866,319), Chapin (US Patent 5,311,949), Ark (US Patent 6,220,368), and Su (US Patent 6,814,244) all teach rotary hand tools with finger actuated switches.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric A. Gates whose telephone number is 571-272-5498. The examiner can normally be reached on Monday-Thursday 7:00-4:30 & alt Fridays 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



EAG  
29 August 2005

Eric A. Gates  
Patent Examiner  
Art Unit 3722



BOYER D. ASHLEY  
PRIMARY EXAMINER